

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

TYMAR DISTRIBUTION, LLC,

Plaintiffs,

v.

MITCHELL GROUP USA, LLC, et al

Defendants.

Case No.: 20-cv-719

DECLARATION OF TIMOTHY MICHAEL FRAILLY

I, TIMOTHY MICHAEL FRAILLY, declare and state, under the penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I have read the Second Amended Complaint filed by Tymar Distribution, LLC in the above referenced action, and I am familiar with the allegations contained therein. I make this declaration, based on my personal knowledge, in support of the Motion to Dismiss the Second Amended Complaint. While I disagree with many of the factual allegations in the Second Amended Complaint, I herein limit my factual assertions to the specific issues of personal jurisdiction and my alleged contacts with New York State. I reserve my right to contest any specific factual allegations in the Second Amended Complaint at a later point in the proceedings.

2. I am, and have at all relevant times herein been, a resident and domiciliary of the State of California.

3. I do not own any property in New York.

4. I do not maintain a New York bank account, and I do not file taxes in New York.

5. I do not have a New York office.

6. I do not employ individuals in New York.

7. I do not solicit business with any degree of regularity in New York.

8. I do not have an agent for service of process in New York.

9. I do not have a New York telephone number.

10. I am employed by Rivelle Products, Inc. in California, and my business is therefore based in the State of California.

11. The vast majority of my business is conducted from my office in California, and the agreements I facilitate on behalf of Rivelle Products, Inc. are negotiated and executed from California. I have never travelled to New York for business. I have only been to New York twice in my life, and both occasions were for brief leisure vacations.

12. With respect to the events described in the Second Amended Complaint, I never travelled to New York to meet with Plaintiff or Co-defendant, or either party's representatives.

I declare under penalty of perjury that the foregoing is true and correct.



TIMOTHY MICHAEL FRAILLY